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CMA(TM) No.8 of 2024

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 28.11.2024

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.(TM) No.8 of 2024

M/s.Roots Industries India Pvt. Ltd.,
R.K.G. Industrial Estate,
Ganapathy,
Coimbatore – 641 006.

.. Appellant

Vs

1.The Registrar of Trademarks,
Trade Marks Division Intellectual Property Bhavan,
Beside Antop Hill Post Office,
S.M. Road, Antop Hill,
Mumbai – 400 037.

2.M/s.Atomberg Technologies Private Limited,
Navi Mumbai, Nerul,
Thane, Maharashtra – 400 706.

.. Respondents

Prayer: This appeal is filed under Section 91 of the Trade Marks Act, 1999, read with Section 151 of CPC and Rule 7 read with Rule 11 of the Madras High Court Intellectual Property Rights Division Rules, 2022, seeking to set aside the impugned order dated 09.02.2024 passed by the first respondent in Opposition No.1167193 in respect of the Trademark Application No.4409145 in Class 11, and consequently direct the first respondent to proceed further with the said opposition proceedings in



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accordance with law and by serving the defect notice if any, upon the appellant for compliance and to proceed further with the opposition proceedings, with costs.

For Appellant : Mr.G.K.Muthukumaran

For R1 : Mr.S.Janarthanam, SPCGSC

For R2 : Mr. S.Diwakar

JUDGMENT

This appeal has been filed challenging the order dated 09.02.2024 passed by the first respondent in the opposition petition filed by the appellant opposing grant of trademark registration in respect of the mark 'NAVEO' in favour of the second respondent under Class 11. Under the impugned order, opposition petition has been dismissed. Aggrieved by the same, this appeal has been filed.

2. A preliminary objection has been raised by the learned counsel for the contesting respondent stating that the present appeal is not for want of jurisdiction by this Court. He would submit that due to the following reasons, this appeal cannot be entertained by this Court:-

(a) The contesting respondent filed an



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application seeking for registration of the trademark only before the Trademark Registry at Mumbai.

(b) An opposition petition opposing grant of registration in favour of the contesting respondent was filed by the appellant only before the Trademark Registry at Mumbai.

(c) The impugned order rejecting the opposition petition filed by the appellant has also been passed by the Mumbai Trademark Registry.

3. In view of the aforesaid reasons, the learned counsel for the contesting respondent would submit that no part of cause of action has arisen at Chennai and therefore, this appeal cannot be entertained by this Court on account of lack of jurisdiction by this Court to entertain this appeal.

4. On the other hand, the learned counsel for the appellant would submit that since the opposition petition was sent through speed post from Coimbatore and the appellant is also having its office at Coimbatore, which is within jurisdiction, this Court is having the power



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to exercise its jurisdiction in this matter.

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5. The learned counsel for the contesting respondent drew the attention of this Court to a decision of the Division Bench of this Court in the case of ***Bharat Bhogilal Patel Vs. Union of India [MANU/TN/1915/2014]*** and would submit that if the ratio laid down in the said decision is applied, this appeal cannot be entertained by this Court for want of jurisdiction. The said decision of this Court has also been followed by a learned Single Judge of the Delhi High Court in ***Dr.Reddys Laboratories Ltd. and another Vs. the Controller of Patents and others [C.O.(Comm.IPD-PAT) No.3 of 2021 & I.A.Nos.13644/2021 and 3420/2022, dated 10.11.2022]***, wherein it is observed that an appeal under Section 117 of the Patents Act, 1970, challenging the order of Patent Office would lie before High Court having territorial jurisdiction over the appropriate office from where the patent application originates.

6. Applying the aforesaid decisions, this Court is of the considered view that the High Court which has territorial jurisdiction in the case on hand is Bombay High Court, as the impugned order has been passed only by the Trademark Registry at Mumbai, as the trademark application



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seeking for grant of trademark registration was also applied by the contesting respondent only before the Trademark Registry at Mumbai. In view of the settled law, the present appeal cannot be entertained by this Court for lack of territorial jurisdiction.

7. The learned counsel for the appellant also drew the attention of this Court to a decision of the Hon'ble Supreme Court in the case of ***Purni Devi and another Vs. Babu Ram and another [SLP (Civil)No.17665 of 2018, dated 02.04.2024]*** and would submit that Section 14 of the Limitation Act must be interpreted and applied in a manner that furthers the cause of justice rather than aborts the proceedings at hand and the time taken diligently pursuing a remedy in a wrong Court should be excluded. He would submit that the appellant had approached this Court inadvertently presuming that this Court has got jurisdiction, since the application opposing grant of registration in favour of the contesting respondent was sent through speed post from Coimbatore and the appellant is also having its office at Coimbatore, within the jurisdiction of this Court.

8. Per contra, the learned counsel for the contesting respondent



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would vehemently oppose that Section 14 of the Limitation Act will not get attracted, since, according to him, the appellant knowing fully well that this Court lacks territorial jurisdiction has approached this Court and therefore, this Court should not show any indulgence to the appellant for the purpose of excluding the period during which this appeal is pending before this Court for saving the limitation as per Section 14 of the Limitation Act. However, the said objection has to be rejected by this Court, since sufficient reasons have been given by the learned counsel for the appellant during the course of his submissions that only inadvertently the appellant had approached a wrong Court for the purpose of filing of an appeal aggrieved by the impugned order.

9. Since this Court lacks territorial jurisdiction to entertain this appeal, this appeal is dismissed. However, the period of time spent in this appeal filed before this Court shall be excluded while computing the period of limitation as per Section 14 of the Limitation Act. The appellant is granted liberty to approach the High Court of Bombay challenging the impugned order in the manner known to the appellant under law. Since this Court lacks territorial jurisdiction to entertain this appeal, Registry is directed to return the original impugned order to the



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learned counsel for the appellant forthwith. No Costs.

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Index:yes/no

Neutral citation: yes/no

To

The Registrar of Trademarks,
Trade Marks Division Intellectual Property Bhavan,
Beside Antop Hill Post Office,
S.M. Road, Antop Hill,
Mumbai – 400 037.

ABDUL QUDDHOSE,J.

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